

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JOHNNY RAY WHITE,

Petitioner,

Case No. 13-12896

HON. TERRANCE G. BERG

v.

J. A. TERRIS,

Respondent.

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**OPINION AND ORDER GRANTING RESPONDENT'S
MOTION FOR AN EXTENSION OF TIME TO FILE RESPONSE**

Before the Court is Respondent's motion for an extension of time to file a response to Petitioner's application for a writ of habeas corpus. Respondent's answer was due on August 19, 2013. Respondent's counsel requested an extension of time until August 30, 2013 to file a responsive pleading to the petition for writ of habeas corpus, because she needs additional time to obtain evidentiary material from the Bureau of Prisons in order to draft an appropriate response. For the reasons stated below, the motion for an extension of time is **GRANTED**.

A federal court has discretion in extending the time for the respondent to file a response to a habeas corpus petition. *Whitfield v. Martin*, 157 F. Supp. 2d 758, 761 (E.D. Mich. 2001) (citing *Clutchette v. Rushen*, 770 F.2d 1469, 1474–75 (9th Cir. 1985)). Specifically, Rule 4 of the Rules Governing § 2254 cases gives the federal courts discretion to take into account various factors such as the respondent's workload and availability of transcripts or other evidence before determining the time when an answer must be made. *See Kramer v. Jenkins*, 108 F.R.D. 429, 432

(N.D. Ill. 1985). Although Petitioner has filed a habeas petition pursuant to 28 U.S.C. § 2241, the Rules Governing § 2254 cases may be applied at the discretion of the district court in habeas petitions not brought under 28 U.S.C. § 2254. *See* Rules Governing § 2254 Cases, Rule 1(b), 28 U.S.C. foll. § 2254. Therefore, this Court can consider the factors enunciated in Rule 4 of the Rules Governing § 2254 cases when evaluating Respondent's motion. *See Kramer*, 108 F.R.D. at 432.

Accordingly, taking into account the ability of Respondent to acquire the relevant documentary evidence, the Court finds that an extension of time for Respondent to file a response is reasonable. *See Hudson v. Helman*, 948 F. Supp. 810, 811 (C.D. Ill. 1996).

It is hereby **ORDERED** that Respondent's Motion for an Extension of Time to File a Response (Dkt. 6) is **GRANTED**. Respondent shall have until **August 30, 2013**, to file an answer to the petition for writ of habeas corpus and any accompanying Rule 5 materials.

Dated: August 20, 2013

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically submitted on August 20, 2013, using the CM/ECF system; a copy of this Order was also addressed to Plaintiff's attention and mailed to FCI Milan.

s/A. Chubb
Case Manager